

14-013099-CZ

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EXHIBIT A
to PubPeer's Motion to Quash

Affidavit of Nicholas J. Jollymore

STATE OF MICHIGAN
IN WAYNE COUNTY CIRCUIT COURT

FAZLUL SARKAR,

Plaintiff,

vs.

JOHN and/or JANE DOE(S),

Defendant(s).

Case No. 14-013099-CZ

Hon. Sheila Ann Gibson

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**pro hac vice motions pending*

AFFIDAVIT OF NICHOLAS J. JOLLYMORE

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO) ss.:

I, Nicholas J. Jollymore, being duly sworn, depose and say:

1. I am an attorney admitted to practice in New York and California. I have been retained by PubPeer, LLC to assist Michigan counsel in resisting a subpoena filed on October 13, 2014 in this court by the plaintiff, Dr. Fazlul Sarkar. I file this affidavit in support of PubPeer’s motion to quash the subpoena and for a protective order.
2. Attached hereto as **Appendix A** is a true and correct copy of the subpoena issued to PubPeer on October 13, 2014.
3. Attached hereto as **Appendix B** and **Appendix C** are true and correct copies of the following news stories:
 - a. Cyranoski, *Acid-Bath Stem Cell Study under Investigation*, Scientific American (February 18, 2014).
 - b. Landau, *Scientist wants to withdraw stem cell studies*, CNN (March 12, 2014).
4. In his complaint, Dr. Sarkar refers to a number of comments, in whole or in part, posted on PubPeer’s website. Below are true and correct copies of the full text of those comments and the surrounding comments on the same webpage on which they appeared as they existed on PubPeer’s website when Dr. Sarkar’s counsel first contacted PubPeer.
5. The full text of the comments referred to in **Paragraph 40** of the complaint:

Peer 1: (November 9th, 2013 5:30pm UTC)

Figure 1D

UPPER Notch-1 panel: please compare NS of BxPC3 (lane 2 from left) with NS of HPAC (lane 4 from left) and CS of PANC-1 (lane 5 from left).

Note also the vertical line and darker background on the left side of the CS band of PANC-1.

LOWER Notch-1 panel: please compare CP of HPAC (lane 3 from left) with CP of PANC-1 (lane 5 from left). Also compare the CP band of BxPC3 (lane 1 from left) with the NP band of PANC-1 (lane 6 from left).

Now, please FLIP HORIZONTALLY the entire LOWER Notch-1 band. Now compare the NP band of BxPC3 in the lower Notch1 panel (lane 2 from left in the original) with the CS of BxPC3 in the upper Notch-1 panel (first lane from left). Also compare the CP bands of HPAC and PANC-1 in the lower Notch-1 panel with the NS bands of BxPC3 and HPAC in the upper Notch-1 panel.

Figure 5

Cyclin D1 Panel: please compare the shape and position of the CS band of HPAC with the CS band of PANC-1 in the Cyclin D1 panel (upper).

CDK2 Panel: please note the vertical line between the NS band of HPAC and CS band of PANC-1. Please note the box around the NS band of BxPC3 (magnify).

Figure 6A, B and C

Please compare the Rb bands in the three panels (A, B, and C). Compare the BxPC3 and HPAC bands in 6A and 6B, magnify and see the shapes and background, especially the small specks in the upper right corner of the second band (from left). Now, please FLIP HORIZONTALLY the RB bands in PANC-1 (panel C) and compare with the two other bands (BxPC3 and HPAC in panes A and B). Then, note the small specks in the upper right corner of the second band (from left).

Figure 7E and Figure 8D

Please compare the two Rb bands. But please increase the width of the Rb bands in Figure 8 and compare. Better seen in PowerPoint, magnify.

Unregistered Submission: (November 10th, 2013 3:40pm UTC)

See this comment from a paper, seven years later

<https://pubpeer.com/publications/22806240>

Unregistered Submission: (November 10th, 2013 4:07pm UTC)

You might expect the home institution to at least look into the multiple concerns which have been raised.

Unregistered Submission: (November 10th, 2013 4:25pm UTC)

And two years ago:

<https://pubpeer.com/publications/21680704>

Unregistered Submission: (November 12th, 2013 2:49pm UTC)

2009 and 2010

<https://pubpeer.com/publications/19813088>

Unregistered Submission: (November 19th, 2013 11:02pm UTC)

And another concern in 2009

<https://pubpeer.com/publications/19531648>

Unregistered Submission: (November 29th, 2013 3:51pm UTC)

Another paper from 21012 with concerns

<https://pubpeer.com/publications/22261338>

Unregistered Submission: (May 26th, 2014 2:37am UTC)

And just recently in 2014

<https://pubpeer.com/publications/24719318>

Unregistered Submission: (November 29th, 2013 5:38pm UTC)

Compare the images in this paper with the images in another paper commented in PubPeer:

<https://pubpeer.com/publications/16885366>

See comparison of images here: <http://imgur.com/WbrimS9>

Unregistered Submission: (May 11th, 2014 4:32pm UTC)

Fig. 8A in this paper is identical to Fig. 5A in Cancer, 2006 Jun 1;106(11):2503-13; (<https://pubpeer.com/publications/16628653>)

Figures can be seen side by side here: <http://i.imgur.com/OeiHlr3.png>

Unregistered Submission: (June 18th, 2014 4:51pm UTC)

Has anybody reported this to the institute?

Unregistered Submission: (June 18th, 2014 5:43pm UTC)

Yes, in September and October 2013 the president of Wayne State University was informed several times.

The Secretary to the Board of Governors, who is also Senior Executive Assistant to the President

Wayne State University, wrote back on the 11th of November 2013:

"Thank you for your e-mail, which I have forwarded to the appropriate individual within Wayne State University. As you are aware, scientific misconduct investigations are by their nature confidential, and Wayne would not be able to comment on whether an inquiry into your allegations is under way, or if so, what its status might be.

Thank you for bringing this matter to our attention."

Unregistered Submission: (June 19th, 2014 1:11pm UTC)

Talking about the Board of Governors, see this public info

<http://prognosis.med.wayne.edu/article/board-of-governors-names-dr-sarkar-a-distinguished-professor>

Peer 2: (June 19th, 2014 7:52pm UTC)

"currently funded by five National Institutes of Health RO1 grants"

That probably works out at about \$200k per PubPeer comment. I should think that NIH must be pretty happy with such high productivity.

Unregistered Submission: (June 20th, 2014 9:44am UTC)

just letting you know that the award for doing what he/she allegedly did is promotion a prestigious position at a different institution.

Strange

http://www.umc.edu/news_and_publications/thisweek.aspx?type=thisweek&date=6%2F9%2F2014

Unregistered Submission: (June 20th, 2014 5:30pm UTC)

The last author is now correcting "errors" in several papers. Hopefully he will be able to address and correct the more than 45 papers (spaning 15 years of concerns: 1999-2014), which were all posted in PubPeer.

Peer 2: (June 20th, 2014 6:39pm UTC)

From the newsletter:

"Sarkar has published more than 525 scholarly articles"

... nearly 50 of which have attracted comments on PubPeer!

It's not hard to imagine why Wayne State may not have fought to keep him. And presumably the movers and shakers at the University of Mississippi Medical Center didn't know that they should check out potential hires on PubPeer (they just counted the grants and papers). I wonder which institution gets to match up NIH grants with papers on PubPeer.

It can only be a matter of time, grasshopper, but that time may still seem long. You saw it first on PubPeer.

Unregistered Submission: (June 29th, 2014 3:11pm UTC)

There is another concern in this paper:

Fig. 7B (Bcl-XL panel) here appears to be similar to Fig. 5A in another paper:

<https://pubpeer.com/publications/16885366>

See problems here:

<http://i.imgur.com/DyHDecA.png>

Unregistered Submission: (July 5th, 2014 12:58am UTC)

From a look at this PI's funding on NIH website it seems this lab has received over \$13 million from NIH during the last 18 years. An online CV shows he has received DOD funds as well, bringing the federal fund total close to \$20 million. Why isn't the NIH and DOD investigating? The problems came to light only because they were gel photos. What else could be wrong? Figures, tables could be made-up or manipulated as well. The problems on PubPeer is for about 50 papers-all based on image analysis. That is just 10% of the output from this lab (or \$2 million worth of federal dollars). What about the other 90%? Sadly this is what happens when research output becomes a numbers game. An equivalent PI would be happy to have just 50 high impact papers properly executed, that moves the research field forward. This lab has 500; but now it will be very difficult to figure out the true scientific value of of any if them. Sad!

Unregistered Submission: (July 5th, 2014 2:42pm UTC)

In reply to Unregistered Submission: (July 5th, 2014 12:58am UTC)

"This lab has 500 [papers]".

Why not institute a system of automatic audit each time an author reaches a multiple of a hundred publications?

6. The full text of the comment referred to in **Paragraph 41** of the complaint is reproduced above as part of the comments referred to in Paragraph 40.
7. The full text of the comments referred to in **Paragraph 42** of the complaint:

Unregistered Submission: (October 15th, 2013 7:34pm UTC)

Figure 6.

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3167947/figure/F6/>

PSA panel. Vertical changes in background between lanes 1 and 2, 3 and 4, and between lanes 5 and 6.

No vertical changes in background in the other 4 panels.

Comparison between spliced and unspliced panels is problematic.

Unregistered Submission: (March 2nd, 2014 8:21pm UTC)

Check this out: same bands for different time conditions

<http://i.imgur.com/4qJBeS7.png>

<http://i.imgur.com/UaeqmWb.png>

Unregistered Submission: (March 4th, 2014 2:59am UTC)

Figure 4 legend clearly stated that VCaP cells were treated with DHT or testosterone for 24 hours.

Unregistered Submission: (October 15th, 2013 8:49pm UTC)

Figure 3A

Image of LNCaP, BR-DIM is identical to image of VCaP, siERG + BR-DIM. Same image for two different cell types and conditions.

8. The full text of the comments referred to in **Paragraph 43** of the complaint:

Peer 1: (October 7th, 2013 1:25pm UTC)

The EZH2 band in Figure 4B is the same band for E-Cadherin in Figure 4C, just flipped over 180 degrees.

Peer 2: (October 7th, 2013 5:14pm UTC)

You are correct: using the same blot to represent different experiment(s). I

guess the reply from the authors would be "inadvertent errors in figure preparation".

Unregistered Submission: (April 6th, 2014 2:23pm UTC)

<http://i.imgur.com/6gveUnM.png>

Peer 3: (July 24th, 2014 12:30am UTC)

There is now an erratum for this article:

<http://i.imgur.com/TcUdlND.png>

There seems to be a lot more "honest errors" to correct.

9. The full text of the comments referred to in **Paragraph 44** of the complaint:

Unregistered Submission: (April 8th, 2014 5:28pm UTC)

<http://i.imgur.com/Kn1TV70.png>

Unregistered Submission: (April 8th, 2014 9:50pm UTC)

They are only images. Do they really matter?

Peer 1: (April 11th, 2014 8:09pm UTC)

Well yes, it matter a lot. The paper was published through a process of prepublication peer review of the data submitted. If these are "only images" then the simple conclusion is that "these are only data" and we can simply forget science and work instead in metaphysics. Beyond that, it matters even more, because if data quality control and data assurance in the lab that produced the paper are sufficiently poor that this can slip through submission, response to reviewers and then proofing, someone has their eye well off the ball.

I would be the first to hold up my hand and agree that this happens, but the minimum message is "get your eye back on the ball" and a response to the effect that steps have been taken to prevent such sloppiness would reassure the community that the paper is in fact OK. Otherwise the conclusion of the reader can only be that these are "only images" then the paper is of less scientific value than the

holiday snaps of the authors.

So a detailed answer is required, alongside a correction and with the latter, a public set of data to show the experiments exist.

Unregistered Submission: (April 12th, 2014 3:14pm UTC)

In reply to Peer 1: (April 11th, 2014 8:09 UTC).

Many thanks for your explanation of why images are important.

Forget metaphysics the authors do not seem to have taken physics.

"data submitted" was the evidence the authors decided to show the world.

I do understand that mistakes happen, but as pointed out by other commentators there are about 30 papers by the senior author which have similar problematic images.

I understand that Wayne State university is aware of some of the papers.

More than that I do not know.

Unregistered Submission: (April 12th, 2014 7:48pm UTC)

Thanks to the community of PubPeer members that these problems haven been brought to light. The problems with the data published by the senior author uncovered here span a period of almost 14 years. One has to wonder how this was not recognized earlier by the journals, reviewers, funding agencies, study sections, and the university. Something is broken in our system.

10. The full text of the comments referred to in **Paragraph 45** of the complaint is reproduced above as part of the comments referred to in Paragraph 44.
11. The full text of the comments referred to in **Paragraph 46** of the complaint is reproduced above as part of the comments referred to in Paragraph 42.
12. The full text of the comment referred to in **Paragraph 47** of the complaint is reproduced

above as part of the comments referred to in Paragraph 43.

13. The full text of the comments referred to in **Paragraph 48** of the complaint:

Unregistered Submission: (March 26th, 2014 8:29pm UTC)

Gel shift lanes in figure 1A (lanes 0 and 10) and in figure 2B (lanes 0 and 24) and in figure 5C (lanes 3 and 4) appear identical.

Unregistered Submission: (March 29th, 2014 11:20pm UTC)

The last author has more than 20 papers commented in Pubpeer.

Peer 1: (March 30th, 2014 10:07am UTC)

"The last author has more than 20 papers commented in Pubpeer. "

He's been very productive.

Presumably the journals know and his university knows. How long would it have taken for you to find out from them? Still counting.

Unregistered Submission: (May 17th, 2014 7:38pm UTC)

An Erratum to a report this previous PubPeer comment has been published by the authors in Int J Cancer. 2014 Apr 15;134(8):E3. In the erratum, the authors state that: "An error occurred during the creation of the composite figure for Fig-5B (Rb) and Fig-6B (I?B?) which has recently been uncovered although it has no impact on the overall findings and conclusions previously reported"

Not so fast!

See additional concerns (band recycling, not addressed in Erratum) in Figure 4A and Figure 6; here:

<http://imgur.com/LVa2cVc>

<http://i.imgur.com/4ARd2Mp.png>

<http://i.imgur.com/miK0HGw.png>

Based on these issues, can we agree with the authors that "an ERROR

occurred during the creation of the composite figures” and that these (and previous “errors”) have “NO IMPACT on the overall findings and conclusions previously reported”?

14. The full text of the comments referred to in **Paragraph 49** of the complaint:

Unregistered Submission: (July 23rd, 2014 3:30pm UTC)

Fig. 3A in this paper contains images that appear to be similar to those in Fig. 1B in another paper

(Journal of Cellular Biochemistry 112:78

Unregistered Submission: (July 23rd, 2014 6:07pm UTC)

See images here:

<http://i.imgur.com/1C1kULL.png>

Unregistered Submission: (July 23rd, 2014 6:37pm UTC)

FH Sarkar has never replied to any of the Pubpeer comments.

Peer 1: (July 23rd, 2014 10:31pm UTC)

but if we send our concerns to his institution and the journals involved, hopefully there will changes...

15. The full text of the comments referred to in **Paragraph 50** of the complaint:

Peer 1: (November 9th, 2013 3:41pm UTC)

Figure 2A and 2B

Please compare the HPAC band in Figure 2A (third panel from the top, CXCR2) with the L3.6pl band in Figure 2B (middle panel, PLC-beta3). Compare also the small black dots in the two bands. Note also the different background of the Input lane on the left in the L3.6pl band of Figure 2B. The bands in 2A and 2B are indicated to represent two different cell lines.

Unregistered Submission: (November 10th, 2013 7:25pm UTC)

We feel terribly sorry for our inadvertent error during figure

preparation. Thank you for pointing out this error, and we realized the blots were indeed misplaced. We have already contacted the journal regarding how to submit a corrigendum with the correct blots. We will keep you updated.

16. The full text of the comments referred to in **Paragraph 52** of the complaint:

Unregistered Submission: (October 19th, 2013 9:55pm UTC)

Figure 2A

COX2 band in COLO-357 and HPAC cells, vertical lines and background that does not fit the rest of the blot. EGFR band in COLO-357 shows and halo and does not fit with the rest. 400X

Figure 6A, EMSA assay (magnify and place bands side by side the corresponding lanes referred below)

1. Control (third lane from left) is the same lane in Gem (nine lane from left). Magnify and match the small dots. The intensity of the NFkappaB band between these two lanes appears "different" but the dots match perfectly.
2. B-DIM, lane 4, matches GEM, lane 8. Note that the small dots match perfectly and also the top of the two bands superimpose exactly. But, interestingly, the NFkappaB band is slightly "different", (darker and rectangular) in GEM from that in B-DIM.

Question related to these EMSA lanes: what are the chances that all imperfections (small dots) in the lanes match perfectly and not the NFkappaB band?

Figure 6C. The EGFR and pEGFR bands in the blot have a peculiar rectangular frame, which does not fit the background and the nature of the technique. 400x

Peer 1: (July 24th, 2014 1:13am UTC)

Could you please present an illustration that pinpoints the issues?

Unregistered Submission: (July 24th, 2014 2:09am UTC)

<http://i.imgur.com/N2S5ymW.png>

<http://i.imgur.com/wDmetjE.png>

17. The full text of the comments referred to in **Paragraph 54(a)** of the complaint:

Unregistered Submission: (April 11th, 2014 9:56pm UTC)

In Figure 3B, please compare B-DIM image with image B-DIM + Rad.
These appear to be identical images for two different conditions.

Unregistered Submission: (July 15th, 2014 8:45am UTC)

Here is an illustration of the issue in the figure. Note that this was in
2012.

<http://imgur.com/WJXzwxq>

18. The full text of the comments referred to in **Paragraph 54(b)** of the complaint:

Unregistered Submission: (April 19th, 2014 3:54pm UTC)

Problematic images since 1999:

<http://imgur.com/iddPDcF>

Unregistered Submission: (April 21st, 2014 1:33am UTC)

1999-2014 here:

<https://pubpeer.com/search?q=Sarkar+FH>

19. The full text of the comments referred to in **Paragraph 54(c)** of the complaint:

Unregistered Submission: (October 17th, 2013 3:05am UTC)

In Figure 2A, the image of cells in A clone + NAC appears identical to the
image of A clone in Figure 6D.

In Figure 3A, the image of A clone at 0 hr appears identical to the image of
B clone + NAC at 24 hrs. Apparently identical images therefore are
representing different treatments and/or cells.

Peer 1: (July 24th, 2014 7:04am UTC)

There are more concerns about figures in this paper.

Concerns about Figure 2A and B, 4C and D, 6C and D, and S2A:

Several panels appear to be very similar to, or overlapping with each other, although they are representing different experiments. "Unregistered" on October 17, 2013, already pointed out one of these similarities but there are more. In Figure 2B, the same group of cells appears to be visible in two different panels.

See concerns highlighted here: <http://i.imgur.com/PGbz9B8.jpg>

Concern about Figure 3A.

As previously reported on October 17, the 'A clone 0h' panel looks very similar to the 'B clone + NAC 24h' panel.

Concern about Figure 3B.

Many groups of cells appear multiple times on different panels. The 24h panels all appear to have the cells seen on the 0h panels, at exactly the same position, plus more cells. Ellipses of the same color highlight most (but not all) similar looking groups of cells.

See concerns about Figure 3 highlighted here:
<http://i.imgur.com/qVEqhoB.jpg>

Peer 2: (July 27th, 2014 4:09pm UTC)

A will recommend that you contact both the institution and journal. There must be and end to this

20. The full text of the comments referred to in **Paragraph 54(d)** of the complaint:

Unregistered Submission: (July 13th, 2014 6:26pm UTC)

Compare Fig. 3B and Fig. 3D

When Colo357 lane for 0 and 25 in 3B is flipped it looks similar to the control and genistein in Fig. 3D for Colo357.

Unregistered Submission: (August 16th, 2014 3:45pm UTC)

See images here:

<http://i.imgur.com/b2q31Pj.png>

21. The full text of the comment referred to in **Paragraph 55** of the complaint is reproduced above as part of the comments referred to in Paragraph 54(d).

I declare under the penalty of perjury under the laws of Michigan that the foregoing is true and correct.

Executed this 9th day of December, 2014, at San Francisco, California.


NICHOLAS J. JOLLYMORE

Subscribed and sworn to (or affirmed) before me this 9th day of December, 2014, by Nicholas J. Jollymore, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

SIGNATURE: 

COUNTY OF SAN FRANCISCO
STATE OF CALIFORNIA



Appendix A
to Jollymore Affidavit

Subpoena issued to PubPeer

Approved, SCAO

Original - Return
1st copy - Witness
2nd copy - File
3rd copy - Extra

STATE OF MICHIGAN JUDICIAL DISTRICT 3rd JUDICIAL CIRCUIT COUNTY PROBATE	SUBPOENA Order to Appear and/or Produce	CASE NO. 14-013099-CZ Hon. Sheila Ann Gibson
-----------------------------------------------------------------------------------------	----------------------------------------------------------	-----------------------------------------------------------

Police Report No. (if applicable) 201 CAYMC, 2 Woodward Ave., Detroit, MI 48226 Court address Court telephone no. (313) 224-0250

Plaintiff(s)/Petitioner(s) <input type="checkbox"/> People of the State of Michigan <input checked="" type="checkbox"/> Fazlul Sarkar	v	Defendant(s)/Respondent(s) John and/or Jane Doe (s)
<input checked="" type="checkbox"/> Civil <input type="checkbox"/> Criminal		Charge
<input type="checkbox"/> Probate In the matter of _____		

In the Name of the People of the State of Michigan. TO:

PubPeer.com c/o Nicholas Jollymore, Jollymore Law Office One Rincon Hill 425 First St. San Francisco, CA 94105

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

YOU ARE ORDERED:

<input type="checkbox"/> 1. to appear personally at the time and place stated below: You may be required to appear from time to time and day to day until excused.		
<input type="checkbox"/> The court address above <input checked="" type="checkbox"/> Other: 101 N. Main Street, Suite 555, Ann Arbor, MI 48104		
Day Monday	Date November 10, 2014	Time 2:00 p.m.

2. Testify at trial / examination / hearing.

3. Produce/permit inspection or copying of the following items: All identifying information, including but not limited to user names, IP addresses, email addresses, profile information, and any other identifying characteristics of all users who have posted any of the comments that were posted on your web site that are described in the attached complaint that was filed in Wayne county, MI.

4. Testify as to your assets, and bring with you the items listed in line 3 above.

5. Testify at deposition.

6. MCL 600.6104(2), 600.6116, or 600.6119 prohibition against transferring or disposing of property is attached.

7. Other: _____

<input checked="" type="checkbox"/> 8.	Person requesting subpoena Nicholas Roumel Telephone no. (734) 663-7550
	Address 101 N. Main Street, Suite 555
	City State Zip Ann Arbor, MI 48104



NOTE: If requesting a debtor's examination under MCL 600.6110, or an injunction under item 6, this subpoena must be issued by a judge. For a debtor examination, the affidavit of debtor examination on the other side of this form must also be completed. Debtor's assets can also be discovered through MCR 2.305 without the need for an affidavit of debtor examination or issuance of this subpoena by a judge.

FAILURE TO OBEY THE COMMANDS OF THE SUBPOENA OR APPEAR AT THE STATED TIME AND PLACE MAY SUBJECT YOU TO PENALTY FOR CONTEMPT OF COURT.

Date 10/13/14 Judge/Clerk/Attorney [Signature]

P37056 Bar no.

Court use only	
<input type="checkbox"/> Served	<input type="checkbox"/> Not served

SUBPOENA

Case No. 14-013099-CZ

PROOF OF SERVICE

TO PROCESS SERVER: You must make and file your return with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

OFFICER CERTIFICATE

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notarization not required)

OR

AFFIDAVIT OF PROCESS SERVER

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

I served a copy of the subpoena, together with _____ (including any required fees) by Attachment

personal service registered or certified mail (copy of return receipt attached) on:

Name(s)	Complete address(es) of service	Day, date, time

I have personally attempted to serve the subpoena and required fees, if any, together with _____ on the following person and have been unable to complete service. Attachment

Name(s)	Complete address(es) of service	Day, date, time

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature _____
Name (type or print) _____
Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the subpoena and required fees, if any, together with _____ Attachment

_____ on _____
Day, date, time

Signature _____ on behalf of _____

AFFIDAVIT FOR JUDGMENT DEBTOR EXAMINATION

I request that the court issue a subpoena which orders the party named on this form to be examined under oath before a judge concerning the money or property of: _____
for the following reasons: _____

Signature _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

Appendix B
to Jollymore Affidavit

*Cyranoski, Acid-Bath Stem Cell Study under
Investigation, Scientific American
(February 18, 2014)*

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Permanent Address: <http://www.scientificamerican.com/article/acid-bath-stem-cell-study-under-investigation/>

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Acid-Bath Stem Cell Study under Investigation

A research institute is launching an inquiry after allegations of irregularities in two blockbuster papers

nature

February 18, 2014 | By [David Cyranoski](#) and [Nature magazine](#) |

A leading Japanese research institute has opened an investigation into a groundbreaking stem-cell study after concerns were raised about its credibility.

The RIKEN center in Kobe announced on Friday that it is looking into alleged irregularities in the work of biologist Haruko Obokata, who works at the institution. She shot to fame last month as the lead author on two papers published in *Nature* that demonstrated a simple way to reprogram mature mice cells into an embryonic state by simply applying stress, such as exposure to acid or physical pressure on cell membranes. The RIKEN investigation follows allegations on blog sites about the use of duplicated images in Obokata's papers, and numerous failed attempts to replicate her results.

Cells in an embryonic state can turn into the various types of cells that make up the body, and are therefore an ideal source of patient-specific cells. They can be used to study the development of disease or the effectiveness of drugs and could also be transplanted to regenerate failing organs. A consistent and straightforward path to reprogramming mature cells was first demonstrated in 2006, when a study showed that the introduction of four genes could switch the cells into an embryonic form known as [induced pluripotent stem \(iPS\) cells](#). The introduction of genes, however, introduces uncertainties about the fidelity of the cells, and Obokata's reports that the feat could be done so simply were met with awe, and a degree of scepticism (see '[Acid bath offers easy path to stem cells](#)').

That scepticism deepened last week when blogs such as [PubPeer](#) started noting what seem to be problems in the two *Nature* papers and in an [earlier paper from 2011](#), which relates to the potential of stem cells in adult tissues. In the 2011 paper, on which Obokata is first author, a figure showing bars meant to prove the presence of a certain stem-cell marker appears to have been inverted and then used to show the presence of a different stem-cell marker. A part of that same image appears in a different figure indicating yet another stem-cell marker. The paper contains another apparent unrelated duplication.

The corresponding author of that study, Charles Vacanti, an anaesthesiologist at Harvard Medical School in Boston, told *Nature* that he learned only last week of a "mix up of some panels". He has already contacted the journal to request a correction. "It certainly appears to have been an honest mistake [that] did not affect any of the data, the conclusions or any other component of the paper," says Vacanti.

The problems in the two recent *Nature* papers, on both of which Obokata is a corresponding author (Vacanti is a co-author on both, and corresponding author on one), also relate to images. In one paper, one of the sections in a genomic analysis in the first figure [appears to be spliced in](#). In the other paper, images of two placentas meant to be from different experiments [look strikingly similar](#).



The controversial work involved a mouse embryo injected with cells made pluripotent through stress.
Credit: Haruko Obokata

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Teruhiko Wakayama, a cloning specialist at Yamanashi University in Yamanashi prefecture, is a co-author on both of the papers and took most of the placental images. He admits that the two look similar but says it may be a case of simple confusion. Wakayama, who left RIKEN during the preparation of the manuscript, says he sent more than a hundred images to Obokata and suggests that there was confusion over which to use. He says he is now looking into the problem.

The scepticism has been inflamed by reports of difficulty in reproducing Obokata's latest results. None of ten prominent stem-cell scientists who responded to a questionnaire from *Nature* has had success. A blog soliciting reports from scientists in the field [reports eight failures](#). But most of those attempts did not use the same types of cells that Obokata used.

Some researchers do not see a problem yet. Qi Zhou, a cloning expert at the Institute of Zoology in Beijing, who says most of his mouse cells died after treatment with acid, says that "setting up the system is tricky". "As an easy experiment in an experienced lab can be extremely difficult to others, I won't comment on the authenticity of the work only based on the reproducibility of the technique in my lab," says Zhou.

Jacob Hanna, a stem-cell biologist at the Weizmann Institute of Science in Rehovot, Israel, however, says "we should all be cautious not to persecute novel findings" but that he is "extremely concerned and sceptical". He plans to try for about two months before giving up.

The protocol might just be complicated — even Wakayama has been having trouble reproducing the results. He and a student in his laboratory did replicate the experiment independently before publication, after being well coached by Obokata. But since he moved to Yamanashi, he has had no luck. "It looks like an easy technique — just add acid — but it's not that easy," he says.

Wakayama says that his independent success in reproducing Obokata's results is enough to convince him that the technique works. He also notes that the cells produced by Obokata are the only ones known — aside from those in newly fertilized embryos — to be able to produce, for example, placenta, so could not have been substituted cells. "I did it and found it myself," he says. "I know the results are absolutely true."

Several scientists have contacted one or some of the authors for more details on the protocol without getting a response. Hongkui Deng, a stem-cell biologist at Peking University in Beijing, was told that "the authors will publish a detailed protocol soon". Vacanti says he has had no problem repeating the experiment and says he will let Obokata supply the protocol "to avoid any potential for variation that could lead to confusion".

Obokata did not respond to enquiries from *Nature's* news team.


A spokesperson for Nature Publishing Group, which publishes *Nature*, said: "The matter has been brought to *Nature's* attention and we are investigating."

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Appendix C
to Jollymore Affidavit

Landau, *Scientist wants to withdraw
stem cell studies*, CNN
(March 12, 2014)

Scientist wants to withdraw stem cell studies

By Elizabeth Landau , CNN

updated 2:52 PM EDT, Wed March 12, 2014

CNN.com

(CNN) -- Scientists hailed a new method of making stem cells as a [breakthrough](#). But questions about the data used for the two studies published in Nature in January have led one of the co-authors to call for a retraction.

Researchers had said they could turn mature cells into embryonic-like stem cells by stressing them in various ways, such as by putting them in an acidic environment. The embryonic-like stem cells can then be coaxed into becoming any other kind of cell possible.

This method, demonstrated using white blood cells of mice, could be faster and simpler than existing methods. Scientists called them STAP, or stimulus-triggered acquisition of pluripotency, cells.

Is it too good to be true?

Study co-author Teruhiko Wakayama, professor at the University of Yamanashi in Japan, [told Japanese public broadcaster NHK this week](#) he's not confident anymore the experiments generated STAP cells.



Reversing heart failure with stem cells



Understanding the stem cell breakthrough

Doubts about the studies have been cropping up on blogs such as [PubPeer](#) in the weeks since their publication. The Riken Center for

Developmental Biology in Kobe, Japan, said in February it was investigating "alleged irregularities" in research by Haruko Obokata, lead author of the studies who works at Riken, [Nature reported](#).

Upon reviewing test data, Wakayama discovered multiple problems, including "questionable images," NHK reported.

What's more, outside experts were unable to reproduce the findings of Wakayama's group; Riken then disclosed detailed methods of making the cells, NHK reported.

Wakayama told NHK he has requested that his co-authors retract the studies and then would like outside experts to do verification studies. He said he is "no longer sure about the credibility of the data used as preconditions for the experiments," NHK reported.

[A Riken official told The Japan News](#) that "the basis of the articles" -- the fact that STAP cells were produced -- "is unshakable."

[In a statement, Riken said](#) that more time is needed to submit final conclusions of the ongoing investigation. The center said it is also considering retraction.

Dr. Charles Vacanti, a study co-author, said in a statement that he stands by the research.

"I firmly believe that the questions and concerns raised about our STAP cell paper published in Nature do not affect our findings or conclusions," said Vacanti, who is director of the Laboratory for Tissue Engineering and Regenerative Medicine at Brigham and Women's Hospital in Boston.

Harvard Medical School, with which Vacanti is also affiliated, said in a statement: "We are fully committed to upholding the highest standards of ethics and to rigorously maintaining the integrity of our research. Any concerns brought to our attention are thoroughly reviewed in accordance with institutional policies and applicable regulations."

[Stem cell breakthrough may be simple, fast, cheap](#)

The thriving science of stem cell research seeks to develop therapies to repair bodily damage and cure disease by being able to insert cells that can grow into whatever tissues or organs are needed.

Before the technique described in Nature, the leading candidates for creating stem cells artificially were those derived from embryos and stem cells from adult cells that require the insertion of DNA to become reprogrammable.

Stem cells are created the natural way every time an egg that is fertilized begins to divide. During the first four to five days of cell division, so-called pluripotent stem cells develop. They have the ability to turn into any cell in the body. Removing stem cells from the embryo destroys it, making this type of research controversial because some say an embryo is a human life.

Researchers have also developed a method of producing embryonic-like stem cells by taking a skin cell from a patient, for example, and adding a few bits of foreign DNA to reprogram the skin cell to become like an embryo and produce pluripotent cells, too. However, these cells are usually used for research because researchers do not want to give patients cells with extra DNA.

The new method does not involve the destruction of embryos or insertion of new genetic material into cells, Vacanti said. It also avoids the problem of rejection: The body may reject stem cells from other people, but this method uses an individual's own mature cells.

To study the STAP cell phenomenon, researchers first genetically altered mice donating stem cells to "label" those cells with the color green. For instance, they modified mice such that their cells would light up green in response to a particular wavelength of light.

The scientists exposed blood cells from these genetically altered mice to an acidic environment. A few days later, they saw that these cells turned into the embryonic-like state and grew in spherical clusters.

Scientists put the cell clusters into a mouse embryo that had not been genetically modified. It turned out, the implanted clusters could form tissues in all of the organs that the researchers tested. The scientists knew that the cells came from the original mouse because they turned green when exposed to a particular light.

Besides modifying acidity, researchers also stressed the cells in other ways, such as lowering the oxygen environment and disrupting the cell membrane. Increasing acidity was one of the most effective methods of turning mouse blood cells into STAP cells.

Among the unknowns about this technique are its effectiveness in humans, and what risks the method

might pose.

Vacanti told CNN in January he hopes the process could get tested clinically in humans within three years. He noted that induced pluripotent stem cells are already being explored in Japan in humans and the same "platforms" could be used for STAP cells.

CNN's Yoko Wakatsuki contributed to this report.

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